

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ORACIO SANCHEZ, JR.)
Plaintiff,) 2:19-CV-1429
vs.)
ULLI KLEMM, and TRACY SMITH,)
Defendants,)

ORDER

On May 29, 2020, Plaintiff filed a motion for summary judgment (ECF No. 23). In the motion, Plaintiff contends that the Defendants have “failed to support their answer to plaintiff’s § 1983 action with any tangible evidence.” He then addresses the defenses to his claim that Defendants have set forth in their answer and contends that they are unsupported. This motion is premature.

Motions for summary judgment are governed by Rule 56 of the Federal Rules of Civil Procedure, which provide in relevant part that:

A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

Fed. R. Civ. P. 56(c)(1).

Thus, Rule 56 anticipates that if appropriate, a party may move for summary judgment once a full record has been developed regarding the relevant issue or issues. Defendants are not required at the pleading stage of a lawsuit to support the defenses that they have asserted in their Answer to the Complaint with factual evidence or legal authority.

Discovery is not scheduled to close until June 24, 2020. If, after the close of discovery, Defendants move for summary judgment and support their arguments with citations to the record and/or legal authority, then Plaintiff can oppose their motion with evidence that is supported by the record and legal arguments. Plaintiff also may, but is not required to, submit his own motion for summary judgment at that time. Therefore Plaintiff's motion is premature and will be dismissed without prejudice to be asserted at the appropriate time.

THEREFORE, it is hereby ORDERED that Plaintiff's motion for summary judgment is dismissed without prejudice and can be reasserted, if appropriate, after the close of discovery.

SO ORDERED this 1st day of June, 2020,

/s/ Patricia L. Dodge
Patricia L. Dodge
United States Magistrate Judge

Cc: Oracio Sanchez, Jr.
KR-8346
SCI Fayette
48 Overlook Drive
Labelle, PA 15450